

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

DONTE HOUSTON	§	
VS.	§	CIVIL ACTION NO. 9:13-CV-60
DARRELL BOBBIT, <i>et al.</i> ,	§	

MEMORANDUM ORDER

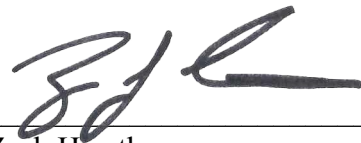
Pending before the court is plaintiff's motion for physical examination (docket entry no. 31). Plaintiff requests the examination in order to assess his injuries and make a determination as to damages in light of potential treatment costs. Plaintiff, in essence, seeks the physical examination in order to prove the allegations in his complaint. Plaintiff cites no authority to support such a request, however.

To the extent that plaintiff seeks a medical examination under Rule 35 of the Federal Rule of Civil Procedure, which empowers a court to "order a party whose mental or physical condition . . . is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner," such a request is unavailing. FED. R. CIV. P. 35. Rule 35 "does not vest the court with authority to appoint an expert to examine a party wishing an examination of himself." *Brown v. United States* 74 F. App'x 611, 614 (7th Cir. Aug. 11, 2003). "Rather, under appropriate circumstances, it would allow the court to order a party to submit to a physical examination at the request of an opposing party." *Id.*; *see also Cabrera v Williams*, 2007 WL 2682163, at \* 2 (D.Neb. Sept. 7, 2007) (denying prisoner's request for medical examination under Rule 35); *Lindell v. Daley*, 2003 WL 2311624, at \* 1-2 (W.D. Wis. June 30, 2003) (Rule 35 allows the court to "order plaintiff

to submit to an examination at the request of the opposing party . . . The rule is not intended to cover a situation such as the one here, where plaintiff wishes an examination of himself;” *Cunningham v. Orr*, 1989 WL 516269, at \* 1 (N.D. Ind. May 8, 1989) (denying *pro se* prisoner’s motion to compel his own physical examination). Accordingly, plaintiff’s motion should be denied. It is, therefore,

**ORDERED** that plaintiff’s motion for physical examination (docket entry no. 31) is **DENIED**.

SIGNED this 19th day of August, 2015.

A handwritten signature in black ink, appearing to read 'Zack Hawthorn', written over a horizontal line.

Zack Hawthorn  
United States Magistrate Judge